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May 14, 2009

BY HAND DELIVERY

The Honorable Robert C. Heinemann
Clerk of the Court
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Heaney, et al. v. Cosmo, et al., *CV 09-757 (ADS)(AKT)* ("Heaney")
Triton Capital Partners, LLC, et al. v. Cosmo, et al., *CV 09-827 (TCP)(ARL)*
("Triton")
Sullivan, et al. v. Agape World, Inc., et al., *CV 09-1274 (LDW)(ETB)*
("Sullivan")
Legurnic v. Ciccone, et al., *CV 09-1436 (ADS)(WDW)* ("Legurnic")
Weshnak, et ano. v. Cosmo, et al., *CV 09-1606 (LDW)(MLO)* ("Weshnak")
Clarke, et al. v. Cosmo, et al., CV-09-1782 (TCP)(ARL) ("Clarke")

Dear Mr. Heinemann:

This firm represents Bank of America, N.A. ("BoFA"), which has been named as a defendant in four of the six above-referenced actions: *Sullivan*, *Legurnic*, *Weshnak* and *Clarke* (collectively, the "BoFA Cases"). Although all six of the cases "arise from the same transactions or events" and therefore are related under Local Rule 50.3.1, the cases have been assigned to several different judges and magistrate judges. We have attached a chart showing, for each case, the parties, the judge and the magistrate judge. The chart lists the cases in the order in which they were filed, since Local rule 50.3.1(e) provides as follows: "Cases which have been judicially determined to be related shall be assigned by the clerk to the judge to whom was assigned the case with the lowest docket number in the series of related cases." The purpose of this letter is to respectfully request that the Court assign the cases to the same district judge and magistrate judge.

All six cases arise from the same alleged transactions or events and contain the same core factual allegations; indeed, the allegations in several of the complaints are virtually identical. The plaintiffs in all six cases allege that they were investors in defendants Agape World, Inc. or Agape Merchant Advance, LLC, (collectively "Agape"), which were operated by defendant

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Nicholas Cosmo.¹ Plaintiffs in all six actions further allege that Agape was, in fact, a Ponzi Scheme, that defrauded thousands of investors—including plaintiffs—of hundreds of millions of dollars. The defendants in each of the six actions generally consist of various combinations of the following individuals and entities: (1) Agape and employees who worked for Agape; (2) BofA; and (3) several commodities brokerage firms.

Accordingly, we respectfully submit that these cases meet the definition of relatedness and, in the interest of efficiency and judicial economy, should be assigned to a single judge and a single magistrate judge. Counsel for plaintiffs in *Heaney* informs us that he does not consent to this application. All other counsel have either consented or raised no objection.

We appreciate the Court's consideration of this request.

Respectfully submitted,



Michael D. Schissel

cc: Jacob H. Zamansky, Esq. (by email)
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¹ *Sullivan* and *Weshnak* are putative class actions; *Heaney*, *Triton*, *Legurnic* and *Clarke* are not.

CASES RELATING TO AGAPE

| Case No. | Plaintiffs | Defendants | District Judge | Magistrate Judge |
|-----------------|----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-------------------------------|
| CV 09-757 | Janet Heany; Scott Heaney; Curt Matzinger; Farrah Silverstein; Janis Silverstein; Darlene Watson; | Nicholas Cosmo; Agape World Inc.; Agape Merchant Advance; Premium Protection Plan; Anthony Masaro; Jason Keryc; Hugo Leon Arias; Sebastian Tauz; Marty Hartmann, Sr.; Marty Hartmann, Jr. | Judge Spatt | Magistrate Judge Tomlinson |
| CV 09-827 | Triton Capital Partners, LLC; Triton Mezzanine Fund, LP; Richard Mittasch | Nicholas Cosmo; Agape World, Inc.; Agape Merchant Advance, LLC | Judge Platt | Magistrate Judge Lindsay |
| CV 09-1274 | Kay and George Sullivan; Michael and Kathleen Tirelli; Steve Bonnano; All other similarly situated | Agape World, Inc.; Nicholas Cosmo; Agape Merchant Advance, LLC; Bank of America, N.A.; MF Global, Inc. Transact Futures; Alaron Trading Corp., d/b/a Alaron Futures and Options | Judge Wexler | Magistrate Judge Boyle |
| CV 09-1436 | Sean Legurnic | Salvatore Ciccone; Anthony Ciccone; Nicholas Cosmo; Agape World, Inc.; Agape Merchant Advance, LLC; Premium Protection Plan, LLC; Bank of America, N.A.; MF Global, Inc.; Transact Futures; Alaron Trading Corporation, d/b/a Alaron Futures and Options | Judge Spatt | Magistrate Judge Wall |

| | | | | |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-------------------------------|
| CV 09-1606 | Marilyn Weshnak; Erica C. Jung; All others similarly situated | Nicholas Cosmo; Agape Merchant Advance, LLC; Bank of America, N.A.; MF Global, Inc.; Transact Futures; Alaron Trading Corporation, d/b/a Alaron Futures and Options | Judge Wexler | Magistrate Judge Orenstein |
| CV 09-1782 | Adrienne Clarke; TL Horizons LLC; Maximilian Enterprises LLC; Equity Trust Company Custodian, fbo Adrienne Clarke IRA | Nicholas Cosmo; Agape World Inc.; Agape Merchant Advance, LLC; Premium Protection Plan, LLC; Agape World, LLC; Anthony Massaro; Jason Keryc; David Petry; Hugo Leon Arias; Sebastian Tauz; Marty Hartmann, Sr.; Marty Hartmann, Jr.; Elizabeth LNU; Thomas Triola; Laurie Savarese; Bank of America, N.A.; MF Global, Inc.; Transact Futures; Alaron Trading Corporation d/b/a Alaron Futures & Options | Judge Platt | Magistrate Judge Lindsay |